



To:

Sir Julian Hartley
Care Quality Commission
151 Buckingham Palace Road
London
SW1W 9SZ

By email: enquiries@cqc.org.uk

Cc: Sir Martyn Oliver, Ofsted: enquiries@ofsted.gov.uk

18 September 2025

Dear Sir Julian,

Re. NHS Act 2006 clinical healthcare activities in education settings

We write jointly as the representative bodies for school and college support staff (GMB, UNISON and Unite) and school leaders (ASCL and NAHT) to raise urgent concerns about the increasing delivery of clinical healthcare activities in educational settings by non-healthcare staff, in circumstances that appear entirely outside statutory regulation and CQC oversight.

We believe this constitutes a growing area of unregulated care: NHS healthcare activity that should be commissioned and provided by the NHS, but is instead delivered in schools and colleges without the statutory powers, by staff employed outside the health system, and without the clinical governance or regulatory accountability that would apply in any comparable health or care environment.

NHS care delivered outside regulated frameworks

Although Integrated Care Boards (ICBs) are responsible for clinical support for children in schools who have long-term conditions and disabilities, we have seen widespread withdrawal of NHS services in educational settings. As a result, local authorities, multi-academy trusts and individual schools are being expected to deliver complex clinical care directly. In many cases, registered nurses are delegating procedures such as [as intermittent catheterisation, enteral \(PEG\) feeding, tracheostomy care, and insulin administration](#) to teaching assistants and other unregistered education staff who:

- Are not NHS employees
- Work in non-CQC registered environments
- Are not subject to the clinical governance, audit, complaints, safeguarding or inspection systems.

This means that invasive and high-risk clinical procedures are being routinely delivered to children and young people in environments that fall outside CQC oversight, with no statutory mandate, clinical leadership or system-level accountability. These issues were covered in a recent [Schools Week article](#).

Legal limits of education-based health provision

The scale and nature of healthcare now expected of schools and colleges goes far beyond statutory duties such as making reasonable adjustments (Equality Act 2010), supporting pupils with medical conditions (section 100, Children and Families Act 2014 – which does not apply to colleges), duties under *in loco parentis* or health & safety/first aid responsibilities.

Importantly, in our view education settings have no general legal authority under the education statutory scheme to function as providers of NHS Act 2006 health services. The only relevant provision — [section 21\(5\) of the Children and Families Act 2014](#) — limits education providers' obligations and powers to healthcare that has been deemed special educational provision. This applies to children and young people with Education, Health and Care plans, and predominantly relates to therapy interventions that 'educate or train'. These obligations and powers would not extend to nursing services necessary to keep a child well (see [NICE \[NG213\] para. 1.4.9](#)). In short, in our view, schools and colleges cannot lawfully act as providers of NHS Act 2006 healthcare outside these limited circumstances — and should not be treated or used as such.

Delegation outside of a legal framework

This situation contrasts starkly with the adult social care system, where section 22 of the Care Act 2014 outlines specific circumstances under which local authorities have powers in relation to NHS Act 2006 healthcare, which are far broader in scope. That system is:

- Underpinned by statute
- Regulated by the CQC
- Supported by [national guidance](#) from the Department of Health and Social Care (DHSC) and Skills for Care
- Structured to allow safe delegation within defined governance frameworks from regulated healthcare professionals to local authority-commissioned care workers

Additional NHS England/DHSC guidance—often condition-specific—further supports safe and lawful delegation, such as [Delegation of Insulin Administration](#). No such legal or regulatory architecture exists in schools, and given schools' target statutory function of education, nor should it. Clinical delegation to education staff therefore occurs outside the statutory framework, creating serious questions of legal compliance, clinical risk and professional accountability.

The role of the CQC

We believe the CQC should consider whether:

- NHS healthcare activities are being delivered inappropriately by CQC-unregulated providers when they should fall within the CQC's oversight, given the risks to service users (children and young people)
- Such arrangements breach the regulatory framework established by the Health and Social Care Act 2008, particularly when what should be NHS-funded care is delegated without legal authority or governance
- Action is needed to prevent systemic circumvention of regulated care pathways, including informal outsourcing of NHS functions to education providers

Our position

We strongly advocate for a needs-led, NHS-commissioned clinical school nursing service for all children and young people in state-funded education, with delegated clinical tasks undertaken by NHS-employed staff, i.e. healthcare assistants. This would operate alongside the local authority-commissioned public health nursing service ensuring:

- Compliance with legal duties
- Proper regulation and clinical oversight
- Clear governance and accountability

This model would ensure children with medical conditions receive safe, lawful and accountable care, without overextending the responsibilities of education settings. We do not underestimate the workforce and funding challenges involved, but the current non-compliant model- in which non-health staff are asked to deliver complex clinical interventions outside the CQC regulatory and inspectorate framework - is unsafe and unsustainable.

We respectfully ask the CQC to:

- Confirm whether you are aware of NHS healthcare being delivered by non-CQC registered providers, i.e. educational settings
- Clarify whether such arrangements fall within any aspects of the CQC's current regulatory remit
- Provide your view on whether delegation to education-employed, non-health staff constitutes a breach of legal/regulatory frameworks
- Provide your view on the increasing number of state-funded education providers employing registered nurses to oversee the provision of clinical healthcare activities being delivered by education-employed, non-health staff
- Engage with NHS England, ICBs, the Department of Health and Social Care and the Department for Education to address this gap in cross-system governance and safety.

Children and young people with medical conditions deserve the same level of clinical protection in education settings as in any other care setting. The current workaround - delegation without a legal basis and as a consequence, a lack of appropriate regulation and governance - amounts to a bypass of statutory safeguards, exposing children and staff to unacceptable risk. We would welcome the opportunity to explore these issues further.

Given this issue sits at the intersection of health and education systems, we are copying this letter to Ofsted.

Yours sincerely



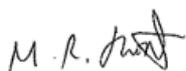
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